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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

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9 Martin Lopez-Heredia, ) No. CV-08-349-PHX-DGC (GEE)

10 Petitioner, ) **ORDER**

11 vs. )

12 Katrina S. Kane, Field Office Director )  
13 Immigration and Customs Enforcement; )  
14 Susan Lambert, Deportation Officer; and )  
15 Bruno Stolc, Warden. )

Respondents. )

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17 Petitioner Martin Lopez-Heredia filed a petition for writ of habeas corpus pursuant  
18 to 28 U.S.C. § 2241, challenging his detention pending a final decision on whether to remove  
19 him to Mexico. Dkt. #1. Magistrate Judge Glenda Edmonds issued a Report and  
20 Recommendation (“R&R”) concluding that this Court should grant the petition unless  
21 Petitioner is given a hearing before an immigration judge with the power to grant bail if the  
22 Government cannot establish that Petitioner is a flight risk or will be a danger to the  
23 community. Dkt. #28. Respondents submitted objections to the R&R. Dkt. #30. On  
24 December 2, 2008, the Court issued an order accepting the R&R and the Clerk entered  
25 judgment accordingly. Dkt. ##31-32.

26 Respondents have filed a motion for relief from the December 2 order and judgment.  
27 Dkt. #34. Respondents present evidence showing that Petitioner was removed to Mexico on  
28 October 24, 2008. Dkt. #34-2. Respondents argue that the petition became moot on that date

1 and thereafter the Court lacked jurisdiction over the petition. Dkt. #34 at 2-3. No response  
 2 has been filed, and the time for doing so has expired.

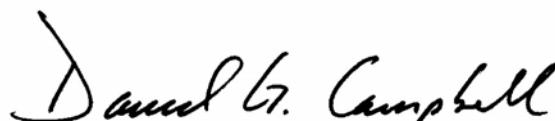
3 “[A] petitioner’s deportation does not automatically render his claim moot.” *Abdala*  
 4 *v. INS*, 488 F.3d 1061, 1064 (9th Cir. 2007). “For a habeas petition to continue to present  
 5 a live controversy after the petitioner’s release, however, there must be some remaining  
 6 ‘collateral consequence’ that may be redressed by success on the petition.” *Id.* (citation  
 7 omitted).

8 The petition in this case challenged Petitioner’s continued detention, not an order of  
 9 removal. Dkt. #1. Given Petitioner’s removal to Mexico, no collateral consequence may be  
 10 redressed by success on the petition. *See Picrin-Peron v. Rison*, 930 F.2d 773, 776 (9th Cir.  
 11 1991) (“By his petition for habeas corpus, Picrin-Peron has requested only release from  
 12 custody. Because he has been released, there is no further relief we can provide.”).  
 13 Moreover, this Court would lack habeas corpus jurisdiction over any challenge to an order  
 14 of removal. *See 8 U.S.C. § 1252(a)(2)(D); Iasu v. Smith*, 511 F.3d 881, 891 (9th Cir. 2007)  
 15 (“[T]he REAL ID Act has eliminated habeas corpus jurisdiction.”). The petition became  
 16 moot on the date of removal, October 24, 2008. Dkt. #34-2. The Court therefore lacked  
 17 jurisdiction to issue the December 2 order. *See Am. Cas. Co. of Reading, Pa. v. Baker*, 22  
 18 F.3d 880, 896 (9th Cir. 1994) (“‘Where events have occurred that prevent us from granting  
 19 effective relief, we lack jurisdiction and must dismiss the appeal.’”) (citation omitted).

20 **IT IS ORDERED:**

21 1. Respondents’ motion for relief from order and judgment (Dkt. #34) is **granted**.  
 22 2. The December 2, 2008 order and judgment (Dkt. ##31-32) are **vacated**.  
 23 3. The petition for writ of habeas corpus (Dkt. #1) is **dismissed** as moot.

24 DATED this 8th day of January, 2009.

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David G. Campbell  
 30 United States District Judge